

**Draft PDD 16-001**  
**Minor Modification – FMA Participant**  
**Group Definitions**  
**April 27, 2016**

**Background:**

- The execution, administration, and operation of extended, renewed, new, or additional contracts for Hydroelectric power from hydroelectric facilities at Hoover Dam are a covered activity under the Habitat Conservation Plan
- All existing Hoover power contracts (for Schedule A, Schedule B and Schedule C contractors) expire on September 30, 2017.
- The new Electric Service Contracts will be with all existing contractors, as well as new “Schedule D” contractors.
- Tribes are becoming Hoover Dam power contractors under Electric Service Contracts with Western Area Power Administration, on the same basis as non-Tribal power contractors. Tribes are one of the specific categories of preference power customers eligible to receive allocations of Hoover “Schedule D” power and to enter into Hoover Electric Service Contracts under the authority of the Hoover Power Allocation Act of 2011 (HPAA), Public Law 112-72.
- The total amount of Hoover Dam energy and capacity available for contracting in the new contracts will not change from the existing contracts (which went into effect on October 1, 1987); however, under HPAA, 5% of the total energy and capacity available was set aside for allocation to new Schedule D contractors, including Tribes.
- All new Schedule D contractors, including Tribes, are required by HPAA, sect. 2(d), to “pay a proportionate share of its State’s respective contribution (determined in accordance with each State’s applicable funding agreement) to the cost of the Lower Colorado River Multi-Species Conservation Program (as defined in section 9401 of the Omnibus Public Land Management Act of 2009 (Public Law 111-11; 123 Stat. 1327))...”
- Tribal contractors will be billed by and pay their proportionate shares of the LCR MSCP costs to Reclamation.
- Tribal contractors may desire to obtain ESA coverage for their Hoover power contracting activities.
- The existing Section 10 permit provides Schedule D contractors with a mechanism to obtain coverage under the existing Section 10 permit by obtaining Certificates of Inclusion from entities within each state identified in the permit (Metropolitan Water District – California; Colorado River Commission of Nevada – Nevada; Central Arizona Water Conservation District – Arizona).
- Discussions have been ongoing with the Fish and Wildlife Service, the entities within each state that would issue Certificate of Inclusions, and the Tribal contractors to develop a Certificate of Inclusion Agreement that is acceptable to all parties.
- If the Tribal contractors receive a Certificate of Inclusion, they become permittee’s to the program and can apply for membership on the Steering Committee. The current language in the FMA requires all permittees that have covered activities within a state to be members of the State Participant Groups. This proposed minor modification would

clarify that all permittees, except Native American tribes, would be included in the State Participant Groups and Native American Tribes who are permittees would be added as members of the Native American Participant Group.

## **Proposed Changes:**

### **Funding and Management Agreement**

7.3.2 B – Members within the Arizona Participant Group must be Permittees that undertake or implement Covered Activities within the state of Arizona, except for Native American tribes who are Permittees.

7.3.2 C – Members within the California Participant Group must be Permittees, that undertake or implement Covered Activities within the state of California or the California Department of Fish and Game, except for Native American tribes who are Permittees.

7.3.2 D – Members within the Nevada Participant Group must be Permittees that undertake or implement Covered Activities within the state of Nevada, except for Native American tribes who are Permittees.

7.3.2 E – Members within the Native American Participant Group must be Native American tribes whose lands are located adjacent to, or who divert water from, the LCR, or who are a Permittee that undertakes or implements Covered Activities within the states of Arizona, California, and Nevada.

### **By-Laws**

Duplicated language in By-Laws

2.2 B – Members within the Arizona Participant Group must be Permittees that undertake or implement Covered Activities within the state of Arizona, except for Native American tribes who are Permittees.

2.2 C – Members with the California Participant Group must be Permittees that undertake or implement Covered Activities within the state of California or the California Department of Fish and Game, except for Native American tribes who are Permittees.

2.2 D – Members within the Nevada Participant Group must be Permittees that undertake or implement Covered Activities within the state of Nevada, except for Native American tribes who are Permittees.

2.2 E – Members within the Native American Participant Group must be Native American tribes whose lands are located adjacent to, or who divert water from, the LCR, or who are a Permittee that undertakes or implements Covered Activities within the states of Arizona, California, and Nevada.